

8.5 Requirements For Parkland Dedication

A. Purpose

This section is adopted to provide recreational areas in the form of neighborhood parks as a function of subdivision and site development in the City of College Station. This section is enacted in accordance with the home rule powers of the City of College Station, granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Chapter 212 (Vernon 1999; Vernon Supp. 2004-2005).

It is hereby declared by the City Council that recreational areas in the form of neighborhood parks are necessary and in the public welfare, and that the only adequate procedure to provide for neighborhood parks is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the city, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing residential property.

Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and located within convenient distances from a majority of the residences to be served thereby. The park zones established by the Parks and Recreation Department and shown on the official Parks and Recreation map for the City of College Station shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

Therefore, the following requirements are adopted to affect the purposes stated above and shall apply to any land to be used for residential purposes:

B. General Requirements

The City Manager or his designee shall administer this Section 8.5, Requirements for Parkland Dedication with certain review, recommendation and approval authorities being assigned to the Planning and Zoning Commission and the Parks and Recreation Advisory Board.

Dedications shall cover both land acquisition and development costs for neighborhood parkland for all types of residential

development. Dedications shall be based on actual dwelling units for the entire development. Increases or decreases in final unit count prior to final plat will require an adjustment in fees paid or land dedicated. If the actual number of dwelling units exceeds the original estimate additional parkland shall be dedicated in accordance with the requirements in this Section 8.5 with the filing of a final plat.

The methodology used to calculate fees and land dedications is attached hereto as Appendix 1 and incorporated and made a part of this ordinance for all purposes.

Fees paid under this Section may be used only for development or acquisition of a neighborhood park located within the same zone as the development.

1. Land Dedication

For single family developments the area of land to be dedicated for parkland purposes shall be equal to one (1) acre for each one hundred one (101) dwelling units. For duplex and other multi-family development this area shall be equal to one (1) acre for each one hundred twenty-five (125) dwelling units.

The total amount of land dedicated for the development shall be dedicated in fee simple by plat:

- a. prior to the issuance of any building permits for multi-family development, or where a plat is not required under the Unified Development Ordinance or
- b. prior to the filing of any final plat for single family, duplex or townhouse development, except for a phased development, where the park shall be platted concurrently with the plat of the first phase of the development.. Access to the parkland shall be available in accordance with Section 8.5.F no later than the second phase of the development..

2. Fee in Lieu of Land

The amount of the Fee-in-Lieu of Land ("Fee") shall be set at an amount sufficient to cover the costs of the acquisition of neighborhood parkland.

A landowner may elect to meet the requirements of Section 8.5.B.1., in whole or in part, by paying a fee in the amount set forth below. Before making this election, for any required dedication greater than three (3) acres, or for any development containing floodplain or greenway, the landowner must:

- a. obtain a recommendation from the Parks and Recreation Advisory Board and
- b. obtain approval from the Planning & Zoning Commission pursuant to the Plat Approval Procedures in Article 3.3 of the Unified Development Ordinance. The fee shall be calculated as follows:
 - One hundred ninety-eight dollars (\$198.00) per dwelling unit for single family development
 - One hundred sixty dollars (\$160.00) per dwelling unit for duplex and multi-family development.

The total amount of the Fee calculated for the development shall be remitted:

- prior to the issuance of any building permits for multi-family development, or where a plat is not required under the Unified Development Ordinance or
- upon submission of each final plat for single family, duplex or townhouse development.

Fees may be used only for acquisition or development of a neighborhood park located within the same zone as the development.

The City Manager or his designee is authorized to accept the Fee for dedications of less than three (3) acres where:

- there is no floodplain or greenway
- if there is a sufficient amount of parkland existing in the park zone of the proposed development or
- the proposed dedication is insufficient for a Neighborhood Park site.

This determination shall be made based on the Recreation, Park & Open Space Master Plan, as amended from time to time.

3. Park Development Fee

In addition to the land dedication, there shall also be a fee established that is sufficient to develop the land to meet the Manual of Neighborhood Park Improvements Standards to serve the zone in which such development is located. This fee shall be computed on the basis of three hundred fifty-eight dollars (\$358.00) per dwelling unit for single family developments and two hundred ninety-two (\$292.00) for duplex and multi-family development. The total fee shall be paid upon submission of each

final plat or upon application for a building permit, whichever is applicable.

4. Park Development Option in Lieu of Fee

A landowner may elect to construct the neighborhood park improvements in lieu of paying the Park Development Fee under the following terms and conditions:

- a. A park concept plan must be submitted to the City Manager or his designee for review. A concept plan approved by the Director of Parks and Recreation is required upon submission of each final plat or upon application for a building permit, whichever is applicable.
- b. Within twelve (12) months from the date of said submission or application the landowner shall submit detailed plans and specifications in compliance with the Concept Plan to the City Manager or his designee for review.
- c. All plans and specifications shall meet or exceed the Manual of Neighborhood Park Improvement Standards in effect at the time of the submission.
- d. Cost estimates shall be determined by the PARD staff and this estimate must meet or exceed the Fee required in Section 8.5.B.3 herein.
- e. If the improvements are constructed on land that has not yet been dedicated to the City by the Landowner, the process of financial guarantee shall be the same as that found in Chapter 9, Section 7 of the Code of Ordinances.
- f. If the improvements are constructed on land that has already been dedicated and/or is owned by the City, then the Developer must post Payment and Performance Bonds to guarantee the payment of all subcontractors and suppliers and to guarantee Developer completes the work in accordance with the approved plans, specifications, ordinances, other applicable laws and that City has issued a Certificate of Acceptance for the improvements.
- g. The construction of all improvements must be completed within two (2) years from the date of the approval of the plans and specifications by the Parks and Recreation Advisory Board or upon completion of the development whichever occurs first. One extension of up to twelve (12) months may be granted upon written request to the City Manager or his designee.
- h. Financial Guaranty - The Landowner shall post a financial guarantee for one hundred percent (100%) of the

estimated cost of the improvements. This guarantee shall be filed with Development Services concurrently with the submission of the first final plat or building permit, whichever is applicable. The financial guarantee will be released after the following requirements are met:

- Improvements must have been constructed in accordance with the Approved Plans
 - All parkland upon which the improvements have been constructed has been dedicated as required under this ordinance
 - All manufacturer's warranties have been provided for any equipment
 - A Certificate of Completion and Acceptance have been issued by the City Manager or his designee
- i. Upon issuance of a Certificate of Completion, Landowner warrants for a period of one (1) year as per the requirements in the Manual of Neighborhood Park Improvements Standards. The City Manager or his designee shall release the financial guarantee upon the expiration of the warranty period provided all warranty work has been completed and accepted by the City.
- j. The City may draw down on the financial guarantee if:
- Landowner fails to complete the improvements in accordance with the Approved Plans
 - Landowner fails to complete any warranty work
 - Landowner fails to dedicate the parkland on which the improvements are constructed
- k. Landowner shall be liable for any deficiency between the amount of the guarantee and the cost of completion of the installation of improvements or the amount of any warranty work.

5. Reimbursement for City Acquired Parkland

The City may from time to time acquire land for parks in or near an area of actual or potential development. If the City does acquire park land in a park zone, the City may require subsequent parkland dedications for that zone to be in Fee-in Lieu-of-Land only. This will be to reimburse the City for the cost(s) of acquisition. Once the City has been reimbursed entirely for all such parkland within a park zone, this Section shall cease to apply, and the other Sections of Section 8.5 shall again be applicable.

C. Prior Dedication or Absence of Prior Dedication

Credit shall be given for land dedicated or fees paid pursuant to Ordinance Nos. 690 or 983.

If a dedication requirement arose prior to enactment of this Section 8.5, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that additional dedication shall be required if the actual density of structures constructed upon property is greater than the former assumed density. Additional dedication shall be required only for the increase in density and shall be based upon the ratio set forth in Section 8.5.B.

At the discretion of the Planning & Zoning Commission, any former gift of land to the City may be credited on a per acre basis toward eventual land dedication requirements imposed on the donor of such lands. The Planning and Zoning Commission shall consider the recommendation of the Parks and Recreation Advisory Board in exercising its discretion under this subsection.

If you delegate this authority you must have criteria for the decision. There are no criteria established.

D. Special Fund: Right to Refund

The City shall account for all fees-in-lieu-of land paid under this Section with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within five (5) years from the date received by the City for acquisition and/or development of a neighborhood park as defined herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated refund of such sum, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

E. Comprehensive Plan Considerations

The Recreation, Park and Open Space Master Plan is intended to provide the College Station Parks and Recreation Advisory Board with a guide upon which to base its recommendations. Because of the need to consider specific characteristics in the site selection process, the park locations indicated on the Plan are general. The actual locations, sizes, and number of parks will be determined when development occurs. The Plan will also be used to locate desirable park sites before development occurs,

and those sites may be acquired by the City or received as donations.

Park Zones are established by the City's Comprehensive Plan, in the Park and Open Space element and are configured to indicate service areas for neighborhood parks. Zone boundaries are established that follow key topographic features such as major thoroughfares, streams, and city limit lines.

F. Parkland Guidelines and Requirements

Parks should be easy to access and open to public view so as to benefit area development, enhance the visual character of the city, protect public safety and minimize conflict with adjacent land uses. The following guidelines and requirements shall be used in designing parks and adjacent development.

1. Any land dedicated to the city under this section must be suitable for park and recreation uses. The dedication shall be free and clear of any and all liens and encumbrances that interfere with its use for park purposes. The City Manager or his designee shall determine whether any encumbrances interfere with park use. Minerals may be reserved from the conveyance provided that there is a complete waiver of the surface use by all mineral owners and lessees. A current title report must be provided with the land dedication. The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Brazos County Tax Assessor shall be submitted with the dedication or plat.
2. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain as long as, due to its elevation, it is suitable for park improvements. Sites should not be severely sloping or have unusual topography which would render the land unusable for organized recreational activities.
3. Where feasible, park sites should be located adjacent to greenways and/or schools in order to encourage both shared facilities and the potential co-development of new sites.
4. Neighborhood park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located so that users are not required to cross arterial roadways to access them.
5. Sites should have existing trees or other scenic elements.
6. Detention / retention areas will not be accepted as part of the required dedication, but may be accepted in addition to the required dedication. If accepted as part of the park, the

detention / retention area design must be approved by the City Manager or his designee and must meet specific parks specifications in the Manual of Neighborhood Park Improvements Standards.

7. Where park sites are adjacent to Greenways, Schools existing or proposed subdivisions, access ways may be required to facilitate public access to provide public access to parks.
8. All park sites shall be accessible by having a minimum of twenty five percent (25%) of the site's perimeter contiguous to a paved public roadway. It is desirable that fifty percent (50%) of the perimeter of a park should abut a public street.

G. Consideration and Approval

Any proposal considered by the Planning and Zoning Commission under this Section shall have been reviewed by the Parks and Recreation Advisory Board or the City Manager or his designee as provided herein, and a recommendation given to the Commission.

H. Review of Land Dedication Requirements and Dedication and Development Fee

The City shall review the Fees established and amount of land dedication required at least once every three (3) years. The City shall take into account inflation as it affects land acquisition and park development costs as well as the City's targeted level of service for parkland per one thousand population. Fees are authorized to be set by resolution of the City Council.

I. Warranty Required:

All materials and equipment provided to the City shall be new unless otherwise approved in advance by the City Manager or his designee and that all work will be of good quality, free from faults and defects, and in conformance with the designs, plans, specifications, and drawings, and recognized industry standards. This warranty, any other warranties express or implied, and any other consumer rights, shall inure to the benefit of the City only and are not made for the benefit of any party other than the City.

All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

This warranty is in addition to any rights or warranties expressed or implied by law.

Where more than a one (1) year warranty is specified in the applicable plans, specifications, or submittals for individual products, work, or materials, the longer warranty shall govern.

This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Ordinance.

Defective Work Discovered During Warranty Period. If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this ordinance, the designs, plans, drawings or specifications within one (1) year after the date of the issuance of a certificate of Final Completion of the work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this ordinance, Developer shall promptly correct the defective work at no cost to the City.

During the applicable warranty period and after receipt of written notice from the City to begin corrective work, Developer shall promptly begin the corrective work. The obligation to correct any defective work shall be enforceable under this code of ordinances. The guarantee to correct the defective work shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

If within twenty (20) calendar days after the City has notified Developer of a defect, failure, or abnormality in the work, Developer has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by Developer.

The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by Developer, its contractors, or subcontractors or by the surety.

The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section of the ordinance.